

Campaign Finance Limitation Act
(Updated through 2009)

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Campaign Finance Limitation Act
Includes 2006 Amendments

32-1601. Act, how cited. Sections 32-1601 to 32-1613 shall be known and may be cited as the Campaign Finance Limitation Act.

32-1602. Legislative findings. (1) The Legislature finds that the cost of running for statewide offices and legislative seats has risen greatly and that many qualified candidates are excluded from the democratic system as a result of such rising cost. The Legislature further finds that the United States Supreme Court has indicated that any limitation on campaign expenditures must be entered into voluntarily and that the utilization of public financing of campaigns is a constitutionally permissible way in which to encourage candidates to adopt voluntary campaign spending limitations. The Legislature further finds that using

public funds to assist in the financing of campaigns for certain statewide offices and legislative seats, in conjunction with voluntary campaign spending limitations, will increase the number of qualified candidates able to run for office. The Legislature further finds that in order for the public financing system to function properly in service of the state's interests, every candidate, regardless of whether or not that candidate seeks or is entitled to public funds, must make timely filings as required by the Campaign Finance Limitation Act.

(2) The Legislature finds that there are compelling state interests in preserving the integrity of the electoral process in state elections by ensuring that these elections are free from corruption and the appearance of corruption; in providing the electorate with information that will assist them with electoral decisions; and in gathering the data necessary to permit administration and to detect violations of the act. The Legislature further finds that these ends can be achieved only if (a) reasonable limits are placed on the amount of campaign contributions from certain sources, (b) the sources of funding and the use of that funding in campaigns are fully disclosed within the time periods prescribed by the act, and (c) public funds are provided to candidates who voluntarily accept spending limitations and otherwise comply with conditions for such funding under the Act.

32-1603. Terms, defined. For purposes of the Campaign Finance Limitation Act, the definitions found in sections 49-1404 to 49-1444 shall be used, except that:

(1) Covered elective office means (a) the Legislature in any election period and (b) the Governor, State Treasurer, Secretary of State, Attorney General, Auditor of Public Accounts, the Public Service Commission, the Board of Regents of the University of Nebraska, and the State Board of Education if designated as covered for a given election period pursuant to section 32-1611;

(2) Election period means (a) the period beginning January 1 of the calendar year prior to the year of the election in which the candidate is seeking office through the end of the calendar year of such election for covered elective offices listed in subdivision (1)(a) of this section and (b) the period beginning July 1 of the calendar year prior to the year of the election in which the candidate is seeking office through the end of the calendar year of such election for covered elective offices listed in subdivision (1)(b) of this section;

(3) Expenditure, as it relates to the expenditure of public funds, means (a) the purchase for campaign activities of (i) services from a communications medium, including production costs, (ii) printing, photography, graphic arts, or advertising services, (iii) office supplies, (iv) postage and other commercial delivery services, (v) meals, lodging, and travel expenses, and (vi) staff salaries and (b) repayment of loans to the candidate committee made in accordance with subsection (2) of section 32-1608.03 for any of the purposes listed in subdivision (a) of this subdivision.

(4) General election period means the period beginning with the day following the end of the primary election period through the end of the election period;

(5) Primary election period means the period beginning with the first day of the election period through the thirty-fifth day following the primary election; and

(6) Unrestricted spending means expenditures or transfers of funds authorized under subdivision (6), (8), or (9) of section 49-1446.03.

32-1604. Candidates for covered elective office; qualification for public funds; filings required; prohibited acts; penalty. (1) If the office is designated as covered for a given election period pursuant to section 32-1611, any candidate for Governor, State Treasurer, Secretary of State, Attorney General, Auditor of Public Accounts, the Public Service Commission, the Board of Regents of the University of Nebraska, or the State Board of Education may qualify for public funds to be used for the election period if he or she limits his or her campaign spending for the election period and meets the other requirements prescribed in this section.

(2) In any election period, any candidate for the Legislature may qualify for public funds to be used for the election period if he or she limits his or her campaign spending for the election period and meets the other requirements prescribed in this section.

(3) (a) Except as otherwise provided in subdivision (b) of this subsection, to qualify for public funds for the election period, a candidate for Governor shall limit his or her spending, other than unrestricted spending, for the election period to two million two hundred ninety-seven thousand dollars, a candidate for State Treasurer, Secretary of State, Attorney General, or Auditor of Public Accounts shall limit his or her spending, other than unrestricted spending, for the election period to two hundred nine thousand dollars, a candidate for the Board of Regents of the University of Nebraska shall limit his or her spending, other than unrestricted spending, for the election period to one hundred thousand dollars, a candidate for the Legislature shall limit his or her spending, other than unrestricted spending, for the election period to eighty-nine thousand dollars, and a candidate for the Public Service Commission or the State Board of Education shall limit his or her spending, other than unrestricted spending, for the election period to seventy thousand dollars, and such candidates shall limit their spending, other than unrestricted spending, for the primary election period to not exceed fifty percent of the limits provided in this subsection for the election period.

(b) Beginning in 2008 and every four years thereafter, the campaign spending limits in this subsection shall be adjusted for inflation based upon the Consumer Price Index for the calendar year prior to the year in which the adjustment is made, and the adjusted spending limits shall be in effect for the elections in 2010 and subsequent election periods until further adjusted as provided in this subdivision. The Nebraska Accountability and Disclosure Commission shall use the Consumer Price Index, All Urban Consumers, All Items, United States City Average, to calculate the adjustments for the spending limits. The spending limits shall be rounded to the next highest one-thousand-dollar amount. If publication of the Consumer Price Index is discontinued, the

most recent spending limit adjustments in effect prior to the discontinuance shall remain in effect for subsequent election periods.

(4) Each candidate for a covered elective office desiring to receive public funds pursuant to this section shall (a) beginning the first day of the election period, raise an amount equal to at least twenty-five percent of the spending limitation for the office from persons who are residents of Nebraska and (b) file with the Nebraska Accountability and Disclosure Commission an affidavit pursuant to section 32-1604.01 indicating his or her intent to abide by the spending limitations and his or her agreement to personally act as a guarantor for the lawful use of such funds and to be held personally liable to the State of Nebraska for any such funds not repaid to the state as required by law. Money raised prior to filing the affidavit shall not count toward the qualifying amount established in this subsection. Money raised prior to the first day of the election period shall not count toward the qualifying amount established in this subsection. At least sixty-five percent of the qualifying amount established in this subsection shall be received from individuals. For purposes of this section, a business, corporation, partnership, limited liability company, or association shall be deemed a resident if it has an office in this state and transacts business in this state.

(5)(a) Any candidate for a covered elective office who does not file an affidavit pursuant to subsection (4) of this section shall file with the commission an affidavit indicating his or her intent not to abide by the spending limitations of this section and an affidavit stating a reasonable estimate of his or her maximum expenditures as defined in section 49-1419 for the primary election period. The estimate of expenditures for the primary election period may be amended up to thirty days prior to the primary election by filing a subsequent affidavit. A candidate nominated for a covered elective office in the primary election shall file an estimate of expenditures for the general election period on or before the fortieth day following the primary election. The estimate of expenditures for the general election period may be amended up to sixty days prior to the general election by filing a subsequent affidavit.

(b) A candidate for a covered elective office who files an affidavit under subdivision (5)(a) of this section shall file an affidavit with the commission when his or her expenditures equal or exceed forty percent of the spending limitation for the primary election period. The candidate shall file a second affidavit with the commission when his or her expenditures equal or exceed forty percent of the spending limitation for the general election period. Each affidavit shall be filed no later than two days after the forty percent has been expended. A candidate who intentionally fails to file the required affidavit within either two-day period shall be guilty of a Class II misdemeanor. A candidate who fails to file an affidavit as required by this subdivision shall pay to the commission a late filing fee of twenty-five dollars for each day the affidavit remains not filed in violation of this section, not to exceed seven hundred fifty dollars. In addition, if a candidate fails to file an affidavit as required by this subdivision within the prescribed time resulting in any abiding candidate not receiving public funds as described in subsection (6) of this section or resulting in a delay in the receipt of such funds, the commission shall

assess a civil penalty of not less than two thousand dollars and not more than three times (i) the amount of public funds the abiding candidate received after the delay or (ii) the amount of public funds the abiding candidate would have received if the affidavit had been filed within the prescribed time.

(6) If an affidavit required under subdivision (5)(b) of this section is not filed, no public funds shall be distributed to the candidates for such office who have qualified for public funds for the election period unless preelection campaign statements filed pursuant to section 32-1606.01, or subdivision (1)(a) or (b) of section 49-1459 or audits by the commission conducted pursuant to section 49-14,122 reveal that a candidate has made expenditures requiring the filing of an affidavit under subdivision (5)(b) of this section.

32-1604.01. Candidates for covered elective office; affidavit; late fee; violation of act; when. (1) Each candidate for a covered elective office listed in subdivision (1)(a) of section 32-1603 shall file either an affidavit to abide under subsection (4) of section 32-1604 or an affidavit not to abide and an affidavit stating a reasonable estimate of his or her maximum expenditures under subdivision (5)(a) of section 32-1604 with the Nebraska Accountability and Disclosure Commission within ten days after a candidate committee is required to be formed pursuant to sections 49-1413, 49-1445, and 49-1449 and on or before the first day of each election period thereafter unless the candidate has not filed and will not file to seek election or reelection or has withdrawn his or her filing to seek election or reelection. Each candidate for a covered elective office listed in subdivision (1)(b) of section 32-1603 shall file either an affidavit to abide under subsection (4) of section 32-1604 or an affidavit not to abide and an affidavit stating a reasonable estimate of his or her maximum expenditures under subdivision (5)(a) of section 32-1604 with the Nebraska Accountability and Disclosure Commission within ten days after a candidate committee is required to be formed pursuant to sections 49-1413, 49-1445, and 49-1449 or within ten days after the office is designated as a covered elective office under section 32-1611, whichever is later, unless the candidate has not filed and will not file to seek election or reelection or has withdrawn his or her filing to seek election or reelection. If a candidate is not required to form a candidate committee, the candidate is not required to file an affidavit under section 32-1604.

(2) An affidavit to abide under subsection (4) of section 32-1604 and an affidavit not to abide and an affidavit stating a reasonable estimate of his or her maximum expenditures under subdivision (5)(a) of section 32-1604 shall be filed on forms prescribed by the commission.

(3) A candidate who fails to file an affidavit as required by this section shall pay to the commission a late filing fee of twenty-five dollars for each day the affidavit remains not filed in violation of this section, not to exceed seven hundred fifty dollars.

(4) It shall be a violation of the Campaign Finance Limitation Act for a candidate for a covered elective office who has filed an affidavit to abide under

subsection (4) of section 32-1604 to exceed the spending limitations prescribed in section 32-1604.

32-1605. Covered elective office; affidavit; additional filing required.

Any individual who files to appear on the ballot for a covered elective office shall file a copy of the affidavit that was required to be filed with the Nebraska Accountability and Disclosure Commission as provided in section 32-1604.01 at the same time and with the same official with whom the individual files for office. A candidate for a covered elective office who qualifies other than by filing shall file a copy of an affidavit under section 32-1604.01, if required under section 32-1604.01, with the commission within five days after qualifying for the ballot. A filing to appear on the ballot for a covered elective office shall not be accepted by a filing official unless a copy of the candidate's affidavit as filed with the commission, if required, is properly filed with the filing official.

32-1606. Covered elective office; request for public funds; disbursement; limitations on use; report.

(1) Any candidate for a covered elective office who has satisfied the requirements of subsection (4) of section 32-1604 may, upon making expenditures which equal or exceed twenty-five percent of the spending limitation for the election period prescribed in such section, file an affidavit with the commission setting forth these facts and requesting public funds. The candidate shall be entitled to receive the greater of (a) the difference between the spending limitation and the highest estimated maximum expenditures filed by any of the candidate's opponents or (b) the difference between the spending limitation and the highest amount of expenditures reported in preelection campaign statements filed pursuant to section 32-1606.01, or subdivision (1)(a) or (b) of section 49-1459 by any of the candidate's opponents. For the election period, no candidate shall be entitled to receive more than three times the amount of the spending limitation for the election period. For the primary election period, no candidate shall be entitled to receive more than three times the amount of the spending limitation for the primary election period. The commission shall compute the amount of the payment to be made to a candidate. For purposes of this section, a candidate's opponent in a partisan primary election shall include only those other candidates of the same political party running for the same office and a candidate's opponent in a nonpartisan primary election shall include all candidates running for the same office.

(2) Public funds to which a candidate is entitled under this section shall be disbursed to that candidate no earlier than the last date to amend an affidavit stating a reasonable estimate of expenditures pursuant to subdivision (5)(a) of section 32-1604 and no later than fourteen days after the election.

(3) Public funds received pursuant to this section shall be kept in a separate account in a financial institution in this state, shall be used only to make expenditures, and shall not be counted against the spending limitations prescribed in section 32-1604. Any unexpended public funds shall be repaid to the state on or before December 31 of the final year of the election period.

(4) Expenditures from public funds received pursuant to this section shall be reported to the commission on forms prescribed by the commission and in accordance with rules and regulations adopted and promulgated by the commission.

32-1606.01. Preelection campaign statement; filing; contents; late filing fee; civil penalty. (1) In addition to campaign statements required according to the schedule in section 49-1459, a candidate who files an affidavit under subdivision (5)(a) of section 32-1604 shall file a third preelection campaign statement with the commission so that it is received by the commission not later than the sixth day before the election. The closing date for a campaign statement filed under this section shall be the eighth day before the election. Campaign statements filed under this section shall be subject to the Nebraska Political Accountability and Disclosure Act in all matters not in conflict with this section.

(2) The campaign statement shall contain the following information: (a) The filing committee's name, address, and telephone number and the full name, residential and business addresses, and telephone numbers of its committee treasurer; and (b) Under the heading RECEIPTS, the total amount of contributions received during the period covered by the campaign statement; under the heading EXPENDITURES, the total amount of expenditures made during the period covered by the campaign statement; and the cumulative amount of those totals for the election period. If a loan was repaid during the period covered by the campaign statement, the amount of the repayment shall be subtracted from the total amount of contributions received. Forgiveness of a loan shall not be included in the totals. Payment of a loan by a third party shall be recorded and reported as a contribution by the third party but shall not be included in the totals. In-kind contributions or expenditures shall be listed at fair market value and shall be reported as both contributions and expenditures.

(3) All information in the campaign statement filed under this section shall also be included in the postelection campaign statement filed under subdivision (1)(c) of section 49-1459.

(4) Any person who fails to file a campaign statement with the commission under this section shall pay to the commission a late filing fee of twenty-five dollars for each day the campaign statement remains not filed in violation of this section, not to exceed seven hundred fifty dollars. In addition, if a candidate fails to file the statement required by this section within the prescribed time resulting in any abiding candidate not receiving public funds as described in subsection (6) of section 32-1604 or resulting in a delay in the receipt of such funds, the commission shall assess a civil penalty of not less than two thousand dollars and not more than three times (a) the amount of public funds the abiding candidate received after the delay or (b) the amount of public funds the abiding candidate would have received if the campaign statement had been filed within the prescribed time.

32-1607. Prohibited acts; violations; penalties. (1) Any candidate who receives public funds pursuant to section 32-1606 and fails to comply with the

spending limitations prescribed in section 32-1604 shall repay the amount expended in excess of the spending limitations to the state within six months after the receipt of the public funds by the candidate.

(2) Any candidate who receives public funds pursuant to section 32-1606 and exceeds the spending limitations prescribed in section 32-1604 by five percent or more shall, within six months, repay the entire amount of public funds received with interest at the rate specified in section 45-104.02, as such rate may from time to time be adjusted, from the date the limitation was exceeded by five percent or more.

(3) Any candidate described in subsection (1) of this section or the treasurer of any such candidate committee who exceeds the spending limitation by five percent or more shall be deemed to be in willful and knowing violation of section 32-1604. Any person willfully and knowingly violating such section shall be guilty of a Class II misdemeanor.

(4) If a person makes a false statement in an affidavit filed pursuant to subdivision (5)(a) of section 32-1604 and he or she does not believe the statement to be true, he or she shall be guilty of a Class IV felony.

(5) The expenditure of public funds received pursuant to section 32-1606 shall not be a violation of the spending limitation.

32-1608. Covered elective office; contributions; limitations. During the election period, no candidate for a covered elective office shall accept contributions from independent committees, businesses, including corporations, unions, industry, trade, or professional associations, and political parties which, when aggregated, are in excess of fifty percent of the spending limitation for the office set pursuant to section 32-1604. The commission shall calculate the limitation on contributions under this section at the time it calculates the adjustments on the campaign spending limitations under section 32-1604. The commission shall publish the new contribution limits on its web site and shall notify any candidate who files for an office which is subject to the spending limitation of the contribution limits applicable at the time of filing.

32-1608.01. Rules and regulations; filings; methods authorized; authentication procedures. (1) The commission shall adopt and promulgate rules and regulations to provide for the reporting of expenditures by candidates of any public funds received pursuant to the Campaign Finance Limitation Act and for the keeping of records with respect to the expenditure of such funds.

(2) The commission shall accept any affidavit required to be filed under the act by hand delivery, facsimile transmission, express delivery service, or any other written means of communication. If the filing is made by a means which does not include the original signature of the affiant, an affidavit which includes the original signature shall be filed with the commission within fourteen days after the initial filing.

(3) The commission may adopt procedures for the digital and electronic filing of any document required to be submitted under the Campaign Finance Limitation Act other than documents required to be notarized. Any procedures for

digital filing shall comply with the provisions of section 86-611. The commission may adopt authentication procedures to be used as a verification process for documents filed digitally or electronically. Compliance with authentication procedures adopted by the commission shall have the same validity as a signature on any document.

32-1608.02. Candidate; record-keeping requirements. Any candidate desiring to receive public funds shall keep detailed accounts, records, bills, and receipts necessary to substantiate the information contained in any affidavit or statement requesting public funds and all expenditures of public funds distributed pursuant to the Campaign Finance Limitation Act.

32-1608.03. Candidate; limit receipt of public funds. (1) Any candidate who has qualified to receive public funds pursuant to the Campaign Finance Limitation Act may, by written request, limit his or her receipt of public funds to an amount which is less than the total amount he or she is entitled to receive.

(2) Any candidate who has satisfied the requirements of subsection (4) of section 32-1604 and has been advised by the commission that he or she will receive public funds by virtue of the expenditures of his or her opponent may finalize a loan for campaign purposes in an amount that does not exceed the amount of public funds for which the commission indicates he or she is qualified.

32-1609. Commission; audit. The commission shall conduct an audit of the accounts and records of any candidate filing an affidavit under subsection (4) of section 32-1604.

32-1610. Campaign Finance Limitation Cash Fund; created; use; investment. The Campaign Finance Limitation Cash Fund is hereby created. The fund shall be used by the commission to provide public financing of campaigns pursuant to the Campaign Finance Limitation Act, except that transfers may be made to the General Fund at the direction of the Legislature. The fund shall consist of money appropriated to it by the Legislature, amounts repaid by candidates pursuant to sections 32-1606 and 32-1607, and taxpayer contributions to the fund pursuant to section 77-27,119.04. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

32-1611. Nebraska Accountability and Disclosure Commission; allocation of funds. (1) Prior to June 30 of each odd-numbered year, the Nebraska Accountability and Disclosure Commission shall (a) allocate available funds of one hundred fifty thousand dollars to fund requests for public funds for covered elective offices listed in subdivision (1)(a) of section 32-1603, (b) calculate its best estimate of the amount of funds available to fund requests for public funds during the ensuing election year in the Campaign Finance Limitation

Cash Fund based upon the appropriations, if any, made to the fund by the Legislature in such year, and (c) if the estimated amount of available funds exceeds one hundred fifty thousand dollars, designate additional covered elective offices in the following order if the following amounts of additional funds are available:

- (a) The Public Service Commission, one thousand dollars;
- (b) The Board of Regents of the University of Nebraska, twenty-five thousand dollars;
- (c) The State Board of Education, one thousand dollars;
- (d) The Auditor of Public Accounts, fifty thousand dollars;
- (e) The Attorney General, fifty thousand dollars;
- (f) The Secretary of State, fifty thousand dollars;
- (g) The State Treasurer, fifty thousand dollars; and
- (h) The Governor, five hundred fifty thousand dollars.

(2) All elective offices not within the class of offices designated under subsection (1) of this section to be covered elective offices for the election period ending on December 31 of the following year shall be designated not to be covered elective offices for such election period.

32-1612. Civil penalty. (1) The Nebraska Accountability and Disclosure Commission shall assess any person that the commission finds to have violated subsection (4) of section 32-1607 a civil penalty of two thousand dollars or an amount equal to ten percent of the amount by which the estimate was exceeded, whichever is greater, for each violation.

(2) If the commission finds that a person violated subsection (4) of section 32-1604.01 by making expenditures exceeding the spending limitations in an amount that does not exceed five percent of the spending limitations, the commission shall assess such person a civil penalty of not more than two thousand dollars. If the commission finds that a person violated subsection (4) of section 32-1604.01 by making expenditures exceeding the spending limitations in an amount that exceeds five percent of the spending limitations, the commission shall assess such person a civil penalty of twice the amount by which the expenditures exceeded the spending limitations or two thousand dollars, whichever is greater.

(3) Unless a specific penalty is otherwise provided, the commission shall assess any person that it finds to have violated any other provision of the Campaign Finance Limitation Act a civil penalty of not more than two thousand dollars for each violation.

32-1613. Statute of limitations. The Nebraska Accountability and Disclosure Commission shall commence civil proceedings for a violation of the Campaign Finance Limitation Act within three years after the date on which the violation occurred.